



Wisconsin Elections Commission

212 East Washington Avenue | Third Floor | P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

August 26, 2021

The Honorable Timothy Ramthun
Room 403 North, State Capitol
Madison, WI

Dear Representative Ramthun,

Thank you for your voicemail messages of Thursday, August 26, in which you asked follow-up questions from our recent phone call. You asked about the definition of an election record, about when Dominion voting equipment will be upgraded, and about the statutory Four-Year Voter Record Maintenance carried out on July 31, 2021.

Regarding the definition of a record and records retention, I am attaching a letter I sent today to Representative Brandtjen on the subject of election records and statutory citations for retention requirements, which I believe should answer your questions.

You also requested information about Dominion Voting Systems being “upgraded” and the WEC’s action on June 2, 2021, including a list of all Dominion voting equipment and their locations and the sequence in which the upgrades are being performed. The WEC’s action has been mischaracterized as permission for the company to upgrade all of its equipment, when what the WEC did was simply to approve a new voting system version.

Before companies can sell voting equipment to local governments in Wisconsin, the system must be approved by the Wisconsin Elections Commission (*see* Wis. Stat. §§ 5.095 & 5.91; Wis. Admin. Code Chapter EL 7). When the WEC receives applications from voting equipment vendors, staff tests them to determine whether they meet the requirements of Wisconsin’s election laws. A Voting Equipment Review Panel made up of clerks holds a public meeting to review the application and provide feedback to the Commission. The six members of the Wisconsin Elections Commission must then vote to approve the system before the vendor can sell it in Wisconsin.

Voting equipment vendors sell approved voting systems to counties and municipalities. It is important to understand that these local governing bodies are the sole decision makers on which systems are purchased, upgraded, and/or discontinued at the municipal level, provided those systems had been approved by the WEC. Wis. Stat. § 5.76. The WEC does not approve or have copies of those contracts, but does maintain a list of which municipalities use which voting equipment systems here: <https://elections.wi.gov/elections-voting/voting-equipment/voting-equipment-use>. The list is based on self-reporting by counties and municipalities.

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At its June 2, 2021 meeting, the WEC did approve an application from Dominion for a new version of Dominion Voting Systems Democracy Suite, versions 5.5-C and 5.5-CS. All the information about that meeting, including Dominion's application, the staff report, the meeting minutes and video are here: <https://elections.wi.gov/node/7340>.

The WEC's approval of a new voting system does not necessarily mean Dominion's Wisconsin customers will be upgraded. WEC does not manage the upgrade process, it is for each jurisdiction to decide if they would like to purchase a new system once it has been approved. For individual municipalities and counties to have their systems upgraded, they would have to buy the new version of the system. These upgrades often provide critical security, usability, and compliance updates.

To summarize the answer to your voting equipment question, the WEC does not have an inventory of all the Dominion voting equipment devices in Wisconsin, nor does it have any information at this time about whether any of those counties or municipalities have executed contracts with Dominion to purchase a newer version of their systems. This also means that WEC does not have any information about when individual municipalities or counties may choose to purchase the new version of Dominion equipment.

Finally, you asked several additional questions involving Four-Year Voter Record maintenance and the ERIC Movers list process. On July 31, 2021, the Wisconsin Elections Commission deactivated more than 205,000 voter registrations through two separate voter list maintenance processes. The idea that these voters should have been deactivated before the November 2020 General Election is at odds with state statutes and a recent Wisconsin Supreme Court decision. The Wisconsin Elections Commission and its staff take voter list maintenance very seriously. The WEC is working every day to follow state statutes and help local election officials keep the registration lists current by identifying and removing deceased voters, people serving felony sentences, and others who are ineligible to vote.

The Commission is required by law every two years to conduct voter record maintenance to identify individuals who have not voted in the previous four years and to deactivate them unless they wish to remain registered. The process is designed to ensure the integrity of the active voter list.

In June, the commission identified 186,982 registered voters who had not voted since the November 2016 presidential election. The commission mailed "Notice of Suspension" postcards to these voters, asking them whether they wanted to remain active on the state's voter list. To remain active, voters had 30 days to mail a return postcard to their municipal clerk, which 12,121 voters did. Voters who did not respond or whose postcard was returned as undeliverable by the Post Office were deactivated on July 31, as required by state law.

On the next page is a breakdown of numbers from the 2021 Four-Year Voter Record Maintenance mailing.

Voter List Maintenance Summary Statistics	Total
Total number of notices mailed	186,982
Number of notices that were returned requesting continuation of registration	12,121
Number of notices that were returned as undeliverable	62,853
Number of voters mailed a notice who requested cancellation of registration	38
Number of voters mailed a notice who clerks determined to be deceased	736
Number of voters mailed a notice who clerks deactivated for reasons other than being deceased or at the voter's request	121
Number of duplicate voter records identified and merged together	385
Number of voters who did not respond to the notice	112,008
Total number of voters mailed a notice whose status changed from eligible (active) to ineligible (inactive)	174,307

This information was provided to the Chief Clerks of the Assembly and the Senate as required by state statutes. Information about past Four-Year Voter Record Maintenance projects is available on our website: <https://elections.wi.gov/publications/reports>.

In addition to the more than 174,000 deactivated due to Four-Year Maintenance, on July 31, the WEC staff also deactivated all the remaining voters from the 2019 ERIC Movers List, as directed by the Commission.

In the summer of 2019, the WEC mailed postcards to 232,579 voters who were identified by the Electronic Registration Information Center (<https://ericstates.org>) as having possibly moved. The Commission voted unanimously in June 2019 not to deactivate voters within 30 days based on the mailing, but to wait until after the 2021 elections to give voters on the list several opportunities to affirm that they had not moved. The Commission directed staff to create a poll book watermark for voters on the 2019 ERIC Movers list, which prompted poll workers to ask them if they had moved. Those who had moved were required to reregister before receiving a ballot. Those who had not moved affirmed that by signing the poll book.

In November 2019, the WEC was sued for not removing ERIC Movers List voters within 30 days if they did not respond to the mailing and request continuation of their registration at their same address. The Commission maintained that the plaintiffs were mistaken, and that a Wisconsin law regarding voters who may have moved did not require the WEC to remove those voters. The case, *Zignego v. Wisconsin Elections Commission*, was finally resolved by the Wisconsin Supreme Court on April 9, 2021, when the court ruled that the law applied to municipal clerks and the Milwaukee City Election Commission, not WEC.

Of the 232,579 voters on the original ERIC Movers list, 136,800 or 58.8% updated their registration at a new address while 16,390 or 7% updated or affirmed their registration at the same address.

After the April 2021 Spring Election, there were still 69,441 individuals with active voter records on the Movers List. None of these people voted in any election since the ERIC Movers

mailing went out in June 2019. Of those, 37,587 were already scheduled to be deactivated as part of Four-Year Voter Record Maintenance on July 31 because they had not voted in four years or responded to the postcard mailing. That left 31,854 on the Active Movers List. Again, none of these people have voted in any election since June 2019. At its June 2, 2021, meeting, the Commission considered what to do with those 31,854 voters. If you will recall, the WEC had voted unanimously in June 2019 to deactivate anyone remaining on the ERIC Movers list after the April 2021 Spring Election. After an extensive discussion, there were not four votes to modify the June 2019 directive, so the Commission took no action. As a result, the WEC's 2019 directive remained in force, and on July 31 the WEC staff deactivated the remaining voter records.

Additionally, you asked why the names of voters who are inactive are not completely removed from the statewide voter registration database. Wisconsin law, specifically Wis. Stat. § 6.36 (Official registration list) contains numerous references to designating voters on the list as either eligible or ineligible, and WEC uses the terms active and inactive voter list. There are several reasons for having an eligible (active) and ineligible (inactive) designation on the list which help safeguard the list and provide continuity for voters as they move within or outside of Wisconsin. Primarily, a voter record is a historical public record, and cannot be deleted. Retaining these records in inactive status allows your voter history to follow you when you move and reregister, even if there is a gap because you remain in Wisconsin but stop voting for a period of time, or because you move out of Wisconsin for a time and then return and register again. An inactive record is part of a voter's history and has to be maintained as an archive. A ballot cannot be issued to an inactive voter, nor do inactive voters appear on the poll book. Also, if someone has died and if the clerk gets a registration form for that person, the clerk would see that the person is deceased and would not register them. If someone is deactivated because they have been convicted of a felony, keeping that record in inactive status allows the clerk to see that information if the person attempts to reregister before serving their complete sentence.

You also expressed a concern that an inactive voter record could be "reactivated for whatever reason." The only reason a voter's record can be reactivated is if he or she submits a new voter registration application, including the statutorily required proof of residence document, and it is approved by the municipal clerk. The only person who has authority to reactivate a voter record in the system is a municipal clerk or deputy clerk who have received training and certification to work in the system. No third-party groups ever have access to Wisconsin's voter registration system.

I hope this information answers your questions about election records retention, the process for approval of voting systems and how municipalities and counties procure new versions of approved voting systems, and voter record maintenance.

Sincerely,

A handwritten signature in black ink that reads "Meagan R.M. Wolfe". The signature is written in a cursive, flowing style.

Meagan Wolfe
Administrator
Wisconsin Elections Commission